

REMARKS

In response to the Final Office Action mailed December 31, 2003, Applicants submit the below remarks and respectfully requests reconsideration of the application, as amended, in light of these remarks. Claims 1-39 are rejected.

The Examiner rejected claims 1-17 and 19-38 under 35 U.S.C. § 102(e) as being anticipated by Lee, et al., (U.S. Patent Application No. 2002/0099649 A1, hereinafter "Lee"). Claims 18 and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee, in view of Anderson, et al. (U.S. Patent No. 5,884,289, hereinafter "Anderson").

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. **Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

As argued below, the prior art references simply do not teach or suggest all the claim limitations of the independent claims of the present application. Furthermore, the prior art references include no suggestion to combine reference teachings.

With respect to Lee, notwithstanding the following remarks, Applicants reserve the right to swear behind the Lee patent.

Lee discloses a technique for identifying and managing fraudulent credit/debit card purchases at merchant web sites. In particular, when a buyer requesting the purchase of goods from a merchant submits a credit card number via the merchant's web site, the merchant forwards information about the requested transaction to a scoring server, which performs a mathematical calculation to estimate the likelihood that the transaction is fraudulent. The merchant then uses the estimation provided by the scoring server to decide whether to approve, decline, ask for more information or out-sort the transaction to a human analyst.

Contrary to the presently claimed invention, in Lee fraud detection is invoked by a merchant's web site, with the merchant being a decision maker with respect to a transaction that was evaluated for fraud. That is, in Lee the merchant decides whether to approve, decline, ask for more information or refer the transaction to a human analyst. In the present invention, in contrast, a fraud detection mechanism is invoked by a payment facilitator system that facilitates payment transactions between multiple sellers and buyers and makes decisions with respect to transactions evaluated for fraud. In particular, in the presently claimed invention, if automated analysis of transaction information performed in the payment facilitator system does not detect fraud, the payment facilitator system sends information instructing a seller to send a purchased product to a buyer, and credits the seller's account for the amount of the purchased product in response to an indication that the buyer received the purchased product. If automated analysis of transaction information performed in the payment facilitator system detects fraud, the payment facilitator system causes enhanced transaction information to be communicated to a human for manual fraud analysis.

Thus, Lee does not teach or suggest at least the features included in the following language of claim 1:

... performing, in the payment facilitator system, automated analysis of transaction information including the sale information and the payment information to detect whether the transaction information indicates fraud;

if the automated analysis does not detect fraud, the payment facilitator system sending information instructing the seller to send the product to the buyer, and crediting an account of the seller for the purchase in response to an indication that the buyer received the product; and

if the automated analysis detects fraud, the payment facilitator system causing an enhanced transaction information to be communicated to a human for manual fraud analysis.

Similar language is also contained in claims 19 and 27. Accordingly, the present invention as claimed in independent claims 1, 19 and 27 and corresponding dependent claims 2-18, 20-26 and 28-39 is not anticipated by Lee. Therefore, Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. § 102(e).

With respect to Anderson, this reference describes a system that facilitates the detection and control of counterfeit debit card fraud. The system alerts issuers of debit cards to undetected multiple debit card fraud conditions by scanning and analyzing cardholder debit fraud information entered by the issuer's employees. The result of this analysis is the possible identification of cardholders who have been defrauded but have not yet realized it, so they are "at risk" of additional fraudulent transactions.

Contrary to the presently claimed invention, the system in Anderson does not communicate with sellers and buyers. Instead, the system in Anderson receives information from issuers of debit cards and sends notifications of the suspect transactions to the issuers. Accordingly, Anderson does not teach or suggest at least the same features that are missing from Lee: if automated analysis of transaction information performed in

the payment facilitator system does not detect fraud, the payment facilitator system sends information instructing a seller to send a purchased product to a buyer, and credits the seller's account for the amount of the purchased product in response to an indication that the buyer received the purchased product; if the automated analysis of transaction information detects fraud, the payment facilitator system causes enhanced transaction information to be communicated to a human for manual fraud analysis.

Thus, Lee and Anderson, taken alone or in combination, do not teach or suggest the present invention as claimed in claims 1, 19 and 27.

Applicants respectfully submit that Applicants' invention as claimed in independent claims 1, 19 and 27 and corresponding dependent claims 2-18, 20-26 and 28-39 is not rendered obvious by the above references, and respectfully requests the withdrawal of the rejections under 35 U.S.C. § 103(a). Applicants furthermore submit that all pending claims are in condition for allowance, which is earnestly solicited.

If the Examiner determines that the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Marina Portnova at (408) 720-8300.

Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicants hereby request such extension.

Respectfully submitted,

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